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 PHILLIP CHAMPION

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

PHILLIP CHAMPION,

 Plaintiff,

 v.

 UNITED STATES OF AMERICA,,

 Defendant.

CASE NO.: C 04-0101 CW

E-Filing Case

**ORDER GRANTING PLAINTIFF'S
 REQUEST THAT THE COURT
 CONSIDER PLAINTIFF'S SURREPLY
 BRIEF IN MAKING ITS
 DETERMINATION**

**Date : May 27, 2005
 Time : 10:00 a.m.
 Place : Courtroom 2
 Hon. Claudia Wilkens**

Plaintiff PHILLIP CHAMPION respectfully requests that the Court consider Plaintiff's Surreply to Defendant's Noticed Motion and Reply Motion in Support of Motion to Dismiss for Lack of Subject Matter Jurisdiction (FRCP 12(b)(1), or Alternatively, for Summary Judgment (hereafter referred to as "Reply") in making its determination or, alternatively, to continue the hearing date to allow Plaintiff additional time to conduct further discovery in light of new evidence

1 raised in Reply papers submitted on behalf of Defendant, UNITED STATES OF AMERICA.

2 In response to the Government's underlying Motion, plaintiff filed an Opposition and
 3 Counter-Motion for Partial Summary Judgment. In reply, the Government has, in part, responded
 4 to the counter-motion and Plaintiff respectfully requests the opportunity to reply. Moreover, in its
 5 reply, the Government relies heavily on the declaration of an expert witness who previously has
 6 never been disclosed to Plaintiff. Plaintiff is simultaneously filing an objection to this evidence
 7 (see Objections to evidence proffered by Defendant in support of its Motion to Dismiss or
 8 alternatively, Summary Judgment). But should the Court not sustain the objection, plaintiff
 9 respectfully requests that the Court grant plaintiff the opportunity to conduct discovery (including
 10 the retention of possible rebuttal experts) concerning this new expert and the issues he raises.
 11 (F.R.C.P. 56(e) and (f); and Civil L.R. 6-3, 7-2, 7-3, 7-4.)

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 13 LANAHAN & REILLEY LLP

14
 15 DATED: May 19, 2005

16 By _____
 17 Thomas Kevin Konicek
 18 Attorneys for Plaintiff,
 19 PHILLIP CHAMPION

20 **ORDER**

21 The court having received and considered Plaintiff Phillip Champion's request to consider a
 22 surreply brief, or in the alternative, that the court grant additional time to allow Plaintiff to conduct
 23 further/additional discovery; and good cause appearing

24 IT IS HEREBY ORDERED

25 X That Plaintiff's surreply be allowed;

26
 27 Dated: May 31, 2005

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/s/ CLAUDIA WILKEN

Judge of the United States District Court

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